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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004515-3608-02]

RIN 0648-XC899

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Closure of the 2013 South Atlantic Commercial Sector for Red
Snapper

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the 2013 commercial
fishing season for red snapper in the exclusive economic zone
(EEZ) of the South Atlantic through this temporary rule.

Commercial landings for red snapper, as estimated by the Science
and Research Director (SRD), are projected to reach the
commercial annual catch limit (ACL) for red snapper on October
8, 2013. Therefore, NMFS closes the commercial sector for red
snapper in the South Atlantic EEZ on October 8, 2013. This
closure is necessary to protect the South Atlantic red snapper
resource.

DATES: This closure is effective 12:01 a.m., local time,

October 8, 2013, through December 31, 2013, the end of the fishing year.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic, which includes red snapper, is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The 2013 commercial ACL for red snapper in the South Atlantic is 21,447 lb (9,728 kg), gutted weight. This ACL was determined using formulas contained in the final rule to implement Amendment 28 to the FMP (78 FR 44461, July 24, 2013).

Under 50 CFR 622.193(y)(1), NMFS is required to close the commercial sector for red snapper when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS opened the 2013 commercial sector at 12:01 a.m., local time, August 26, 2013 and monitored commercial harvest in-season. NMFS has determined that the commercial ACL for South Atlantic red snapper will have been reached by October 8, 2013.

Accordingly, the commercial sector for South Atlantic red snapper is closed effective 12:01 a.m., local time, October 8, 2013, and remains closed until NMFS determines when a commercial season for red snapper may occur.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having red snapper onboard must have landed and bartered, traded, or sold such red snapper prior to 12:01 a.m., local time, October 8, 2013. During the closure, the harvest and possession and sale and purchase of red snapper in or from the South Atlantic EEZ are prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of red snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 8, 2013, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions for commercial red snapper would apply regardless of whether the fish were harvested in state or Federal waters, as specified in 50 CFR 622.190(y)(1). Additionally, the recreational fishing season for red snapper is closed.

In 2014, the total removals (landings and dead discards)

for 2013 will be compared to the 2013 ABC to determine if the 2013 ABC was exceeded and thus whether limited commercial and recreational fishing seasons for red snapper can occur in 2014. If NMFS determines that limited commercial and recreational red snapper seasons can occur in 2014, NMFS will file a notification with the Office of the Federal Register to announce the opening dates of any commercial and recreational fishing seasons in 2014. A commercial fishing season would begin on the second Monday in July, and a recreational fishing season, consisting of weekends only (Fridays, Saturdays, and Sundays) would begin on the second Friday in July.

Classification

The Regional Administrator, Southeast Region, NMFS has determined this temporary rule is necessary for the conservation and management of South Atlantic red snapper and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.193(y)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and public comment.

This action responds to the best available scientific

information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for red snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect red snapper since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: October 1, 2013.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
performing the functions and duties of the Assistant
Administrator for Fisheries, National Marine Fisheries
Service.

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